PAHANG SOUTH UNION OMNIBUS CO. BHD.

v.

THE MINISTER OF LABOUR & MANPOWER & ANOR.

FEDERAL COURT, KUALA LUMPUR
RAJA AZLAN SHAH CJ (MALAYA)
ABDUL HAMID OMAR FJ
EUSOFFE ABDOOLCADER J
[CIVIL APPEAL NO. 82 OF 1980]
29 JUNE 1981

LABOUR LAW: *Trade union - Recognition - Claim for recognition under s. 9(2) Industrial Relations Act 1967 - Validity and effect - Section 12 Industrial Relations Act - Sections 4, 5, 25(2), 35 Courts of Judicature Act.*

In December 1975 the 2nd respondent claimed for recognition in respect of the appellant's employees. This was refused by the appellant. The majority were not members of the 2nd respondent. Reference was made to the Director of Industrial Relations who disclosed that a check by the Registrar of Trade Unions revealed that only 43.2% of the employees were members of the 2nd respondent. The matter rested after the appellant refused to accord recognition to the 2nd respondent.

On 8 January 1977 the 2nd respondent made another claim for recognition. As the appellant disputed that the majority of its employees were members of the 2nd respondent a report was made to the 1st respondent under s. 9(4) of the Industrial Relations Act 1967.

On 12 May 1977 the Director of Industrial Relations informed the appellant that the Registrar of Trade Unions had found that 62.76% of its employees were members of the 2nd respondent. The appellant disputed this and requested for a further check in the presence of all parties but on 30 July 1977 the Director General of Industrial Relations forwarded the 1st respondent's decision under s. 9(5) according recognition to the 2nd respondent. The appellant unsuccessfully applied to the High Court for a *certiorari* to quash the decision of the 1st respondent's decision on the grounds that:

(1) As the 1st respondent had made no decision on the 2nd respondent's first claim for recognition, the second claim for recognition was precluded and accordingly invalid.

(2) The membership check carried out by the Registrar of Trade Unions was improper and wrong and contrary to the principles of natural justice on the premise that he made no verification of the signatures of the appellant's employees in the membership application forms in the presence of the parties.

Held:

[1] As the 1st respondent did not dispute the finding of the Registrar of Trade Unions and had accepted the appellant's decision denying recognition there was no necessity for the 1st respondent to make a decision under s. 9(5) of the Industrial Relations Act.

[2] The Court will not sit on appeal against the decision of the 1st respondent and when no appeal lies from a decision, judicial review cannot be resorted to as an *alter modus* for an appeal by way of circumventing or repairing that omission.

[3] The 1st respondent had acted properly in the exercise of his broad discretion in the matter under s. 9(5) and has taken all relevant matters into consideration in deciding to accord recognition to the 2nd respondent. The Court cannot substitute its own judgment for that of the 1st respondent and will invalidate the exercise of his judgment or discretion only if it is satisfied that no reasonable person charged with his statutory responsibilities and with a due and proper appreciation of his statutory duties could have exercised his power in the way that he did.

[4] There has been no breach of the rules of natural justice when the 1st respondent rejected the appellant's request for a further membership check in the presence of representatives.

[5] Section 9(5) incorporates a privative or ouster clause providing that a decision of the 1st respondent under that section shall be final and shall not be questioned in any Court. The High Court in this instance can only review a decision by *certiorari* if it is vitiated by jurisdictional error or is a nullity.

[6] The 1st respondent if in fact he erred which he did not, it did not go to jurisdiction nor did he infringe the rules of natural justice.

[Application dismissed with costs.]

Cases referred to:

Re Bowman [1932] 2 KB 621
Ohene Moore v. Akesseh Tayee [1935] AC 72
General Electric Co. Ltd. v. Price Commission [1975] ICR 1
Healey v. Minister of Health [1955] 1 QB 221
Re H.K. (An Infant) [1967] 2 QB 617
Reg. v. Gaming Board for Great Britain, ex parte Benaim and Khaida [1970] 2 QB 417
Punton v. Ministry of Pensions and National Insurance [1963] 1 WLR 186
Ashbridge Investments Ltd. v. Minister of Housing and Local Government [1965] 1 WLR 1320
Padfield v. Minister of Agriculture, Fisheries and Food [1968] AC 997
Associated Provincial Picture House Ltd. v. Wednesbury Corporation [1948] 1 KB 223
Anisminic Ltd. v. Foreign Compensation Commission [1969] 2 AC 147
Sydney Municipal Council v. Campbell [1925] AC 338
Minister of Labour and Manpower & Anor. v. Paterson Candy (Malaysia) Sdn. Bhd. [1980] 2 MLJ 122
National Union of Hotel, Bar and Restaurant Workers v. Minister of Labour and Manpower [1980] 2 MLJ 189
Foh Hup Omnibus Co. Berhad v. Minister of Labour and Manpower & Anor. [1973] 2 MLJ 38
United Kingdom Association of Professional Engineers & Anor. v. Advisory, Conciliation and Arbitration Service [1980] 2 WLR 254
Mak Sik Kwong v. Minister of Home Affairs, Malaysia (No. 2) [1975] 2 MLJ 175
Lewis v. Heffer [1978] 1 WLR 1061
Bushell & Anor. v. Secretary of State for the Environment [1980] 3 WLR 22
Regina v. Commission for Racial Equality, ex parte, Cottrell & Rothon [1980] 1 WLR 1580
South East Asia Fire Bricks Sdn. Bhd. v. Non-Metallic Mineral Products Manufacturing Employees Union & Ors. [1980] 2 MLJ 165; 3 WLR 318; 2 All ER 689
Colonial Bank of Australia v. Willan [1874] LR 5 PC 417
Essex Incorporated Congregational Church Union v. Essex County Council [1963] AC 808

Legislation referred to:

Industrial Relations Act 1967, s. 9(4)

For the appellant - S. Kulasegaran; M/s. Ranjit, Thomas & Kula
For the last respondent - P.M. Mahalingam, SFC
For the 2nd respondent - K. Chandra; M/s. K. Chandra & Co.

JUDGMENT

Eusoffe Abdoolcader J:

This appeal involves the question of the validity *vel non* of the 1st respondent's determination of a trade union recognition dispute between the appellant and the 2nd respondent when he decided on 12 July 1977 that recognition be accorded to the latter in the exercise of his powers under s. 9(5) of the Industrial Relations Act 1967 as it stood before its amendment on 15 September 1980, and all references to s. 9 in this judgment will accordingly be to that provision of the Industrial Relations Act prior to the 1980 amendment. We should perhaps add that with the amendment of s. 9, the Industrial Relations Regulations 1980 were enacted and also took effect on 15 September 1980, providing *inter alia* in respect of a claim for recognition by a trade union for the particulars and information that the Director-General of Industrial Relations may require to be furnished to him but these regulations do not apply to the present proceedings and do not therefore concern us.

On 3 December 1975 the 2nd respondent made a claim for recognition by the appellant under s. 9(2) in respect of its employees but the appellant refused on the ground that a majority of its employees were not members of the 2nd respondent and suggested a membership check by the Director of Industrial Relations in the presence of both parties to which the 2nd respondent objected. The appellant then furnished the Director of Industrial Relations on request with a list of its employees, and by a letter dated 2 September 1976 the Director-General of Industrial Relations informed the appellant that a membership check carried out by the Registrar of Trade Unions showed that the 2nd respondent only had 43.2 per cent of the appellant's employees as its members. The appellant replied on 24 September 1976 that it was not in the circumstances prepared to accord recognition to the 2nd respondent. The matter rested there until the 2nd respondent wrote once again to the appellant on 8 January 1977 making a second claim for recognition which is the pertinent subject-matter of this appeal.

We pause here to dispose of a point taken on behalf of the appellant in reliance on the provisions of s. 12 of the Industrial Relations Act which, briefly, prohibit any further claim for recognition where the 1st respondent has decided against according recognition to a trade union until three months have elapsed after the decision, and the appellant's contention in this regard is to the effect that as the 1st respondent had made no decision as such in respect of the first claim for recognition by the 2nd respondent in December 1975, the second claim for recognition was precluded and accordingly invalid. The short and simple answer to this lies in the uncontroverted affidavits of the 1st respondent, the Deputy Director-General of Industrial Relations and the general secretary of the 2nd respondent which disclose that the first claim for recognition had been resolved through the offices of the Director-General of Industrial Relations as the 2nd respondent did not dispute the results of the membership check then carried out by the Registrar of Trade Unions and had also accepted the decision of the appellant not to accord recognition, and the 1st respondent was not therefore required to make any decision under s. 9(5) and he did not accordingly do so.

Section 9(5) requires the 1st respondent to take such steps or make such inquiries as may be necessary or expedient to resolve the matter or to give a decision thereon upon receipt of a report under subsection (4). The report under s. 9(4) is a prerequisite to the 1st respondent taking cognizance and assuming jurisdiction in the matter and he has the alternative under s. 9(5) of either taking steps or making inquiries (which by s. 9(6) include such action taken or made by or under the direction of the Director-General of Industrial Relations) to resolve the matter or to give a decision thereon. Section 12 does not in the circumstances have any application in the present proceedings and we cannot therefore see any substance in the argument in this respect which Mr. Kulasegaran for the appellant merely advances, and somewhat less than half-heartedly at that, for our consideration on a technical point, as he puts it.

Reverting to the second claim for recognition made in January 1977 by the 2nd respondent, it was once again disputed by the appellant that the 2nd respondent had a majority of the appellant's employees as its members. The 2nd respondent then reported the matter in writing to the first respondent under s. 9(4) and on 8 February 1977 the Director of Industrial Relations wrote to the appellant requesting two copies of a list of its employees as at 8 January 1977 which were sent to him on 28 February 1977. The appellant was informed by the Director-General of Industrial Relations by a letter dated 12 May 1977 that the Registrar of Trade Unions had carried out a membership check and found that 62.76 per cent of its employees were members of the 2nd respondent.

The appellant then carried out a survey of its employees which allegedly disclosed only 49 out of its 110 employees as members of the 2nd respondent, thus forming only a minority and it conveyed the result of this survey to the Director-General of Industrial Relations on 22 June 1977 with a request for a further membership check in the presence of representatives of both the appellant and the 2nd respondent or alternatively for the matter to be referred to the Industrial Court. We must, however, immediately observe that the latter alternative suggested was not open to the appellant under the Industrial Relations Act as it then stood after amendment on 9 October 1969. The Director-General of Industrial Relations under cover of a letter dated 30 July 1977 to the appellant enclosed the 1st respondent's decision in writing dated 12 July 1977 under the provisions of s. 9(5) according recognition to the 2nd respondent.

The appellant complains that the membership check carried out by the Registrar of Trade Unions was improper and wrong and contrary to the principles of natural justice, primarily and basically on the premise that he made no verification of the signatures of the appellant's employees in the application forms for membership in the 2nd respondent in the presence of the parties concerned. It accordingly obtained leave on 4 October 1977 to apply for an order of *certiorari* to quash the 1st respondent's decision to accord recognition to the 2nd respondent but its substantive motion for *certiorari* was dismissed by Wan Hamzah J on 19 March 1980 and the matter now comes on appeal before us.

Turning now to the respondents' presentation in the matter: The 1st respondent in his affidavit states that in arriving at his decision on 12 July 1977 he had taken into consideration all the relevant facts, the appellant's request to be present during the membership check, the 2nd respondent's rejection of the request made and the Registrar of Trade Unions' impartiality in the matter. The Registrar of Trade Unions made an affidavit narrating in some depth the procedure he adopted in carrying out the membership check in connection with the 2nd respondent's first claim for recognition in December 1975 and specifying the several documents and records utilised and resorted to for this purpose,

and again on the same lines in relation to the second claim for recognition in January 1977 which culminated in the 1st respondent's decision according recognition to the 2nd respondent which is in question in this appeal. He gives details as to how he arrived at the conclusion that 62.76 per cent of the appellant's employees were *bona fide* members of the 2nd respondent and categorically states that there was no reason to doubt the validity and genuineness of the documents and records he examined and the signatures in the application forms for membership in the 2nd respondent and that he had received no complaints in respect thereof.

Neither the learned Judge nor this Court is sitting on appeal against the decision of the 1st respondent. An appeal is the creature of statute and will only lie if a statute gives such a right and then only within the limits which the statute giving the right stipulates (In *re Bowman* [1932] 2 KB 621, 633 (at p. 633 **per** Swift J)); (*Ohene Moore v. Akesseh Tayee* [1935] AC 72, 75 (at p. 75 **per** Lord Atkin)). No appeal lies from a decision of the 1st respondent under s. 9(5). When no appeal lies from a decision, judicial review cannot be resorted to as an *alter modus* for an appeal by way of circumventing or repairing that omission. The scope of judicial review is narrower and limited and it would be useful and apposite to reproduce *in extenso* the delightfully lucid and comprehensive exposition on this aspect Lord Dennin MR, in *General Electric Co. Ltd. v. Price Commission* [1975] ICR 1, 12 (at p. 12) when he stresses the supervisory nature of the jurisdiction:

> Parliament often entrusts the decision of a matter to a specified person or body, without providing for any appeal. It may be a judicial decision, or a quasi-judicial decision, or an administrative decision. Sometimes Parliament says its decision is to be final. At other times it says nothing about it. In all these cases the Courts will not themselves take the place of the body to whom Parliament has entrusted the decision. The Courts will not themselves make the original findings of fact. They will not themselves embark on a rehearing of the matter: see *Healey v. Minister of Health* [1955] 1 QB 221. But, nevertheless, the Courts will, if called upon, act in a supervisory capacity. They will see that the decision-making body acts fairly: see *In re H.K. (An Infant)* [1967] 2 QB 417 and *Reg. v. Gaming Board for Great Britain, ex parte Benaim and Khaida* [1970] 2 QB 617. The Courts will ensure that the body acts in accordance with the law. If a question arises on the interpretation of words, the Courts will decide it by declaring what is the correct interpretation: see *Punton v. Ministry of Pensions and National Insurance* [1963] 1 WLR 186. And if the decision-making body has gone wrong in its interpretation, they can set its body has gone wrong in its interpretation, they can set its order aside: see *Ashbridge Investments Ltd. v. Minister of Housing and Local Government* [1965] 1 WLR 1320 (I know of some expressions to the contrary, but they are not correct.) If the decision-making body is influenced by considerations which ought not to influence it; or fails to take into account matters which it ought to take into account, the Court will interfere: see *Padfield v. Minister of Agriculture, Fisheries and Food* [1968] AC 997, 1007, 1061; If the decision-making body comes to its decision on no evidence or comes to an unreasonable finding - so unreasonable that a reasonable person would not have come to it - then again the Courts will interfere: see *Associated Provincial Picture Houses Ltd. v. Wednesbury Corporation* [1948] 1 KB 223. If the decision-making body goes outside its powers, or misconstrues the extent of its powers, then, too, the Courts can interfere: see *Anisminic Ltd. v. Foreign Compensation Commission* [1969] 2 AC 147. And, of course, if the body acts in bad faith or for an ulterior object, which is not authorised by law, its decision will be set aside:, see *Sydney Municipal Council v. Campbell* [1925] AC 338. In exercising these powers, the Courts will take into account any reasons which the body may give for its decisions. If it gives no reasons - in a case when it may reasonably be expected to do so, the Courts may infer that it has no good reason for reaching its conclusion, and act accordingly: see *Padfield v. Minister of Agriculture, Fisheries and Food* [1968] AC 997, 1007, 1061 case.

We would further refer to the judgment of this Court in *Minister of Labour and Manpower & Anor. v. Paterson Candy (Malaysia) Sdn. Bhd.* [1980] 2 MLJ 122, 124 which also involved a trade union recognition dispute where the Registrar of Trade Unions made the relevant inquiry and would advert to and apply the test and approach laid down therein (at p. 124) and again that set out in the judgment of this Court in *National Union of Hotel, Bar and Restaurant Workers v. Minister of Labour and Manpower* [1980] 2 MLJ 189, 191 (at p. 191). The very point in issue in these proceedings in fact arose in *Foh Hup Omnibus Co. Bhd. v. Minister of Labour and Manpower & Anor.* [1973] 2 MLJ 38, 39-40 when this Court held that the 1st respondent had a complete discretion as to the manner in which he was to act in settling a dispute as to recognition of a trade union and that there had been no breach of the rules of natural justice. Mr. Kulasegaran, however, seeks to distinguish that decision on the ground that there are 'fundamental differences', as he puts it, which however we find to be no more than purported reliance on factual minutiae which make no difference whatsoever to the ratio and principle enunciated in that case. Abdul Hamid J (now FJ), applying *Foh Hup Omnibus Co. Bhd. v. Minister of Labour and Manpower & Anor.* [1973] 2 MLJ 38, 39-40 also decided to the same effect on 13 July 1979 in *Mogah Bus Company v. Minister of Labour and Manpower and the Transport Workers Union* Kuala Lumpur High Court Originating Motion No. 40 of 1973.

The affidavits put in disclose that the 1st respondent has acted properly in the exercise of his broad discretion in the matter under s. 9(5) and has taken all relevant matters into consideration and had sufficient evidence and material before him for the purposes of arriving at his decision to accord recognition to the 2nd respondent. We can see no reason or justification for interfering with his decision on an application of the principles governing the scope of judicial review we have adumbrated. The Court cannot substitute its own judgment for that of the 1st respondent and will invalidate the exercise of his judgment or discretion only if satisfied that no reasonable person charged with his statutory responsibilities and with a due and proper appreciation of his statutory duties could have exercised his power in the way that he did (*United Kingdom Association of Professional Engineers & Anor. v. Advisory, Conciliation and Arbitration Service* [1980] 2 WLR 254).

There is no material to indicate the method of the membership survey carried out by the appellant or the reason why it should displace or override and be considered more reliable and acceptable than the investigation and check made by an impartial official in the person of the Registrar of Trade Unions. When the appellant sent a list of its employees to the Director of Industrial Relations on 28 February 1977 pursuant to the latter's request on 8 February 1977, it could have but did not choose to send specimen signatures of its employees as well when it had an opportunity to do so but purported to make its own survey only after being apprised of the result of the Registrar of Trade Union's investigation. The 1st respondent is not required in law to verify the signatures of the appellant's employees as the appellant contends and any such exercise could and would perhaps by a logical extension of the appellant's argument on a *reductio ad absurdum* evolve into a full-scale inquiry and would in any event be impracticable and virtually impossible and only result in exacerbating the process of inquiry to the extent of negating the discretion vested in and properly exercisable by the 1st respondent under s. 9(5), even to the point in the incidence of obduracy or intransigence on the part of one or both parties of requiring or necessitating verification by handwriting experts! The appellant appears to suggest the signatures may be forged, but if so the onus is on it to show this (for instance, by the employees concerned themselves making representations to that effect) but it has not done so apart from making veiled insinuations of far-fetched possibilities.

There has been no breach of the rules of natural justice when the 1st respondent did not accede to the request of the appellant made on 22 June 1977 for a further membership check in the presence of representatives of both parties, and we would refer to what was said in this connection in *Foh Hup Omnibus Co. Bhd. v. Minister of Labour and Manpower & Anor.* [1973] 2 MLJ 38, 39-40. The rules of natural justice are not inflexible principles and may vary in their content in the circumstances of the case and in their ambit in the context of their application (*Mak Sik Kwong v. Minister of Home Affairs, Malaysia (No. 2)* [1975] 2 MLJ 175, 179, 181); (*Lewis v. Heffer* [1978] 1 WLR 1061 (at pp. 1076-1077 **per** Ormnod LJ)); (*Bushell & Anor. v. Secretary of State for the Environment* [1980] 3 WLR 22; *Regina v. Commission for Racial Equality, Ex parte Cottrell & Rothon* [1980] 1 WLT 1580).

Section 9(5) however incorporates a privative or ouster clause providing that a decision of the 1st respondent under that section shall be final and shall not be questioned in any Court. The Privy Council reiterated in *South-East Asia Fire Bricks Sdn. Bhd. v. Non-Metallic Mineral Products Manufacturing Employees Union and Ors.* [1980] 2 MLJ 165; 3 WLR 318; 2 All ER 689 that such a clause would not preclude the jurisdiction of the High Court to review a decision by *certiorari* if it is vitiated by jurisdictional error or is a nullity. We think it should be made clear, and any misconception to the contrary should immediately be removed and put to rest, that *South-East Asia Fire Bricks v. Non-Metallic Mineral Products Manufacturing Employees Union* [1980] 2 MLJ 165; 3 WLR 318; 2 All ER 689 does not expound any new doctrine but only restates the law as it has always been, as since the nineteenth century the Courts have consistently minimised the effect of ouster clauses which either directly or indirectly proscribe *certiorari* by interpreting them as protecting only those decisions which display non-jurisdictional error of law but as having no effect at all as regards jurisdictional review (*Mak Sik Kwong v. Minister of Home Affairs, Malaysia (No. 2)* [1975] 2 MLJ 175, (at p. 179, 181), following and applying *Colonial Bank of Australasia v. Willan* [1874] LR 5 PC 417 a decision of the Privy Council which was approved and explained in the House of Lords by Lord Devlin in *Essex Incorporated Congregational Church Union v. Essex County Council* [1963] AC 808, (at pp. 834-835)). If the 1st respondent did in fact err at all, and we find he did not, it did not go to jurisdiction nor did he infringe the rules of natural justice.

Mr. Kulasegaran, however, submits that *South-East Asia Fire Bricks Sdn. Bhd. v. Non-Metallic Mineral Products Manufacturing Employees Union* [1980] 2 MLJ 165; 3 WLR 318; 2 All ER 689 was decided *per incuriam* and is not good law, on the argument, briefly, to the effect that s. 9(5) is inconsistent and conflicts with the provisions of s. 25(2) of the Courts of Judicature Act 1964 which give the High Court the additional powers set out in the schedule thereto and therefore with para. 1 of the schedule which gives power to issue directions, orders or writs including writs *inter alia* of the nature of *certiorari, and* that in the circumstances the privative clause in s. 9(5) cannot prevail against these provisions of the Courts of Judicature Act and is *pro tanto* void by virtue of s. 4 thereof which provides that in the event of inconsistency or conflict between that Act and any other written law other than the constitution in force at the commencement of that Act, the provisions of that Act shall prevail. Assuming for a moment for the sake of argument that there is in fact any such inconsistency or conflict as is contended, but there is none as will appear, s. 4 of the Courts of Judicature Act can have no application as the provisions of the Courts of Judicature Act (apart from s. 5 which took effect on 16 September 1963) came into force on 16 March 1964 but the Industrial Relations Act was enacted much later and brought into force on 7 August 1967 and indeed as a result of an amendment thereto

s. 9(5) itself only took effect on 9 October 1969, and it was therefore not in force at the commencement of the Courts of Judicature Act, thus negating any application of s. 4 thereof in the event if at all of any inconsistency or conflict between the several statutory provisions in question.

There is, however, in any event no conflict or inconsistency between the provisions of s. 25(2) and para. 1 of the schedule to the Courts of Judicature Act and s. 9(5). The proviso to s. 25 of the Courts of Judicature Act specifically exercise of its jurisdiction as are referred to therein shall be exercised in accordance with any written law or rules of Court relating to the same. The proviso limits or qualifies what precedes it and the whole section inclusive of the proviso is to be, read in such a manner that they mutually throw light on each other and result in a harmonious construction. The powers conferred on the High Court in the Schedule to the Courts of Judicature Act are only enabling powers empowering the exercise of jurisdiction in respect of the matters specified therein, but only accordance with any written law or rules of Court relating thereto. They are merely declaratory of the jurisdiction of the High Court and are subject to restrictions or conditions imposed by legislative provisions pertaining to their exercise and in relation to privative clauses subject to established judicial interpretation that the ouster of jurisdiction can only affect errors of law within the jurisdiction and not without nor if the decision sought to be impugned is a nullity. Section 25(2) of the Courts of Judicature Act does not confer any powers as such but only indicates that there is power to make such orders specified in the schedule thereto as may be necessary when power so to do is either provided for or is not excluded by some statutory provision and then only within the ambit of its content. We should perhaps add that Mr. Kulasegaran also seeks to rely on the provisions of s. 35 of the Courts of Judicature Act relating to the general supervisory and revisionary jurisdiction of the High Court in his argument on this point but promptly agreed and abandoned it when we pointed out that it has no relation whatsoever to the present proceedings. There is therefore neither substance nor merit in the submission made in this respect to question the validity of the decision in *South-East Asia Fire Bricks Sdn. Bhd. v. Non-Metalic Mineral Products Manufacturing Employees Union* [1980] 2 MLJ 165; 3 WLR 318; 2 All ER 689; we can find nothing to commend it except perhaps its audacity and misplaced ingenuity and reject the argument advanced.

In the light of all these considerations we see no cause for any justified complaint by the appellant in this matter and accordingly dismiss this appeal with costs. The deposit in Court by way of security will be paid out to the respondents equally to account of their taxed costs. The costs of the 1st respondent both here and in the Court below will of course be carried on a solicitor and client basis pursuant to the provisions of s. 2(b) of the Public Authorities Protection Act 1948.

Also found at [1981] CLJ 83